

An Ordinance Amending the Administrative Approval Process
Applicable to Special Development Districts

WHEREAS the Special Development District (“SDD”) approval process has proven, time and time again, to be an invaluable development tool; and

WHEREAS the ordinance establishing the SDD process was first established at a time when development projects in West Hartford were far less complex than is now the case; and

WHEREAS the requirements imposed upon applicants to comply strictly with their approved SDD plans are extremely important but may, in some cases, actually be an impediment to the completion of projects; and

WHEREAS the authority granted to the Town Planner to approve certain minor amendments to approved SDD plans does not adequately address developers’ needs to make minor plan modifications when addressing unanticipated issues; and

WHEREAS changes in technology and record-keeping practices make it unnecessary for applicants to submit multiple sets of final approved plans

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF WEST HARTFORD THAT section 177-44 of the West Hartford Code of Ordinances is hereby repealed and the following is substituted in lieu thereof:

- A. Purpose. In order to permit and encourage variety and flexibility in land development that will be in harmony with the objectives of the Comprehensive Plan for the Town's development, the Town Council, upon application, may approve, disapprove or approve with modifications a plan for the development of land, which plan may require changes in the regular standards applying to the permitted uses of land in the zoning district in which it is located, subject to the following standards and procedures.
- B. Standards.
 - (1) The property shall be not less than the minimum required lot size in any district unless the application is for a subdivision involving a variety of lot sizes.
 - (2) The Town Council shall make findings that the plan as approved will be:
 - (a) In harmony with the overall objective of the Comprehensive Plan, as defined in Article I of this chapter.
 - (b) Superior to a plan possible under the regular standards of this chapter.
 - (c) In harmony with the actual or permitted development of adjacent properties.
 - (3) The total density of development, in terms of floor space, dwelling units and land

coverage, shall not be greater than that permitted in the district in which the property is located.

- (4) The standards of the Town Subdivision Regulations shall be met where a subdivision is proposed.

C. Procedure.

(1) Filing of application.

- (a) An application for approval of a special development plan shall be made in writing to the Town Council by the owner or owners of the fee to the land and of the fee to the buildings which are the subject of the application, together with any other applicant. When receiving an application, the Town Council may waive the requirement that all owners of the fee to the land and of the fee to the buildings which are the subject of the application sign said application if:

- [1] Requested to do so in writing by the owner of an interest in the subject property or a tenant thereof; and
- [2] Good cause can be shown for the applicant's failure to obtain the required signatures; and
- [3] The applicant certifies that it has mailed, by first-class mail, postage prepaid, a complete copy of the application to the owner(s) who did not sign the application at their last known business or residential address(es).

- (b) For purposes of this section, if the property which is the subject of the application is held as a condominium pursuant to the Common Interest Ownership Act, Connecticut General Statutes Ch. 828, as that chapter may be renumbered or recodified from time to time, or pursuant to any predecessors or successors to that act, the requirement that all owners of the fee to the land and of the fee to the buildings which are the subject of the application shall be deemed to be satisfied if the duly authorized representative of the unit owners' association executes the application.

(2) All applications shall include the following information:

(a) Plot plan.

- [1] Three prints of a plot plan of the property drawn to scale based upon Connecticut Geodetic Survey (CGS) datum and certified by a licensed surveyor or engineer, showing the information required under § 177-41B(1); and
- [2] Either of the following:
 - [a] One copy of the plot plan described in Subsection

C(2)(a)[1] of this section provided on such computer medium and in such computer program or language as may be established by the Director of Community Services from time to time; or

- [b] An application, addressed to the Town Council, for a waiver of the requirement to produce the computerized plot plan set forth in Subsection C(2)(a)[2][a] of this section setting forth, in detail, the reason(s) why compliance with that provision is impractical, unfeasible or impossible.
- (b) Three prints of all proposed building floor plans and elevations, drawn to a scale of not less than 1/16 inch equals one foot, including an indication of all materials proposed to be used in all buildings.
 - (c) Three prints of a landscaping plan indicating the location, size and species of all plant materials proposed to be preserved and planted.
 - (d) For each building and land area proposed to be used for other than residential purposes, a description of the proposed uses, operations and equipment, number of employees and other occupants and techniques to be used in preventing the emission of any noise, vibration, radiation, odor or dust, smoke, gas, fumes or other atmospheric pollution of any kind.
 - (e) A statement of the Director of Health as to the adequacy of any proposed sewage disposal system.
 - (f) The Town Council shall set a public hearing on the proposed plan and refer the proposed plan to the Town Plan and Zoning Commission in accordance with Chapter XII, Section 5(b), of the Town Charter (Special Act No. 562 of 1957 General Assembly), as amended. If the special development plan requires a change of zone, Chapter XII, as aforesaid, shall be followed, together with the following procedures, and said Charter compliance shall be separately noted; otherwise the following procedures shall govern, and said plan may be approved by a vote of not less than a majority of the members of the Council. In the event of a zone change, the Council shall designate a consolidated hearing.
- (3) The Commission shall consider the application and shall approve, disapprove or approve with modifications the proposed plan within 60 days after referral. The plan, after action by the Commission, shall be submitted to the Town Council for its action. If the Commission shall fail to act on the application within the stated time limit, the application shall be submitted to the Town Council without further requirements as to Commission action.
 - (4) The Town Council shall hold a public hearing on the proposed plan as acted upon by the Commission and shall approve, disapprove or approve with modifications. Such development plan, if approved by the Council, shall modify or supplement the regulations of this chapter as they apply to the property included in the approved plan.

- (5) The Town Council may attach any conditions to its approval as it considers necessary in order to assure continued conformance with the approved plan and the zoning regulations and may also require the submission of a suitable performance bond to assure satisfactory completion of necessary improvements.
- (6) A copy[Copies] of the approved plan on permanent tracing material shall be filed, at the applicant's expense, in the offices of the Town Clerk, [and Plan and Zoning Commission, and an] An additional paper copy[on permanent material] and an electronic copy shall be filed in the office of the Town Planner[Plan and Zoning Commission]in formats which he or she may specify from time to time. Any approved plan not so filed within 90 days after approval by the Town Council shall be null and void.
- (7) A suitable notation shall be made in the Zoning Ordinance and on the Zoning Map identifying any property for which a special development plan has been approved.
- (8) Except as otherwise specified in this section, applications for changes in approved plans shall be made and acted upon using the same procedure as required for the initial applications.
- (9) The Town Planner can approve the following adjustments to an approved SDD plan without Town Council approval, but the approval of such adjustments will not be effective until the day following that next regular meeting of the Town Council (at which meeting such adjustment shall appear on the Town Council agenda), which meeting is at least 10 days following the Town Planner's notification of his or her decision. The communication from the Town Planner shall state that the Town Council may reject it. The Council shall reject all applications for which a sign was not posted, in accordance with the requirements of § 177-46, at least seven days before the date of the Council meeting. The Town Planner may approve an application for an adjustment in the SDD plan only if he or she determines that, as modified, the SDD plan will continue to [be in accordance with]serve the purposes of the original SDD plan approved by the Town Council and that the findings made by the Town Council pursuant to subsection B(2) of this section will be satisfied thereby. [In no event can t]The Town Planner may not adjust [provisions in]elements of an SDD plan such that limitations in the underlying zone are exceeded by said adjustment. Each of the following elements in an approved SDD plan may be adjusted by the Town Planner[, not to exceed five total element changes]. The Town Planner may approve an application for an adjustment pursuant to this section only once every [12]6 months, not including those instances in which the Town Council reverses the Town Planner's decision and not including those instances in which the application is required in order to address unanticipated and immediate health, safety and/or welfare needs; further adjustments may be made only by Town Council amendment of the SDD plan.
- (a) Any distance or area measurement may be adjusted by up to a cumulative total of 10%, but bulk limitations may be adjusted up to 10% or [500]1,500 square feet, whichever is less.
- (b) The type, size, number and location of plantings required for landscaping

purposes (but not those required for screening from adjacent residential areas) may be adjusted by the substitution of other plantings in the same class (deciduous or nondeciduous); by plantings of similar size and number[whose size differs by up to 10% of that required by the SDD ordinance]; and by locating plantings within a radius of 50 feet from a site specified in the SDD ordinance.

- (c) The arrangement of parking spaces within a designated area may be adjusted, and the number of required parking spaces (including the mixture of types of spaces required) may be adjusted by up to a cumulative total of 10% of the required number of spaces or 10 spaces, whichever is less.
 - (d) Minor architectural changes.
 - (e) The location of accessory uses and structures.
 - (f) The size of signs.
 - (g) Any adjustment necessary to conform to conditions of approval imposed by other federal, state or local agencies which may have jurisdiction with respect to any aspect of the property that is subject to the SDD plan.
- (10) No approval pursuant to this section shall be effective until the approval plan is filed as prescribed by § 177-44C(5).

(Van Winkle)
6/14/16

Approved as to Form and Legality:

Joseph A. O'Brien, Corporation Counsel